

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )

Revision of the Commission's Rules  
to ensure compatibility with enhanced  
911 emergency calling systems )

CC Docket No. 94-102

DOCKET FILE COPY ORIGINAL

To: The Commission

Comments of the Rural Cellular Association

The Rural Cellular Association ("RCA")<sup>1</sup>, hereby submits its Comments on the report of CTIA, PCIA, APCO, NENA and NASNA (hereafter "Consensus Parties") on the status of E-911 Phase I implementation.<sup>2</sup> In 1996 the Consensus Parties developed an agreement concerning E911 implementation<sup>3</sup>, which the FCC essentially adopted.<sup>4</sup>

Over the course of this proceeding, RCA has pointed out the unique challenges that

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<sup>1</sup> RCA is an association representing the interests of small and rural wireless licensees providing commercial services to subscribers throughout the nation. Its member companies provide service in more than 100 rural and small metropolitan markets where approximately 13 million people reside. Formed in 1993 to address the distinctive issues facing rural cellular service providers, the membership of RCA currently includes rural PCS carriers, as well.

<sup>2</sup> FCC Public Notice DA 99-1627, rel. Aug. 16, 1999.

<sup>3</sup> "Public Safety-Wireless Industry Consensus: Wireless Compatibility Issues, CC Docket 94-102," filed by CTIA, NENA, APCO, and NASNA on February 13, 1996 ("Consensus Agreement").

<sup>4</sup> Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 18676 (1996) ("Report and Order"); Memorandum Opinion and Order ("Reconsideration Order"), 12 FCC Rcd 22665 (1997).

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implementation of E-911 technology poses to its members, who provide wireless service in rural areas.<sup>5</sup> Primarily, RCA has been concerned that the blueprint for E-911 implementation did not take into consideration the real world characteristics of rural areas, such as: the technical capability of the recipients of E-911 information - the local emergency service providers; logistical difficulties in ensuring that the information is, in fact, useful; and technical barriers to the provision of location information in rural areas, such as the wide geographic separation of cell sites, which often makes it impossible to provide information accurate within the proposed 125-meter standard, and triangulation location techniques, which would be useless in locating mobile users in vast areas within each rural service area market in the United States unless cells are sited on market boundaries. These issues remain a significant concern of RCA member companies.

As for the economics of E911 implementation, RCA was very concerned about the cost of E911 implementation. RCA agreed with the 1996 Consensus Agreement's conclusion that a cost recovery mechanism was needed to fund both carrier (wireless and wireline) and Public Service Answering Point ("PSAP") investment in E911 technology and cost of service.

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<sup>5/</sup> See Comments of the Rural Cellular Association, filed January 9, 1995, and Reply Comments of the Rural Cellular Association, filed March 17, 1995, In the Matter of Revision of the Commission's Rules to ensure compatibility with enhanced 911 emergency calling systems, CC Docket No. 94-102; and Comments of the Rural Cellular Association In the Matter of Petition for Rulemaking of the Ad Hoc Alliance for Public Access to 911, CC Docket No. 94-102, filed December 15, 1995.

Recognizing the necessity of cost recovery, the Commission decided that compliance with a request for E911 implementation be conditioned on there being a cost recovery mechanism in place, and that such mechanism(s) be established by local jurisdictions.<sup>6</sup>

In its frustration over what it perceives as a slow pace of E-911 implementation, which may be attributable to "issues relating to cost recovery mechanisms and choice of Phase I transmission technologies," the Commission has suggested that perhaps E-911 implementation need not be conditioned upon a cost recovery mechanism being in place.<sup>7</sup> The FCC directed the Consensus Parties to address these issues in its August 9th status report (hereafter "Consensus Report").

The Consensus Report identifies several factors, not just cost recovery, that present challenges for E911 implementation, including wireless service areas and the number of PSAPs, and PSAP and Carrier Operational impacts. The Consensus Report also notes other issues that could facilitate E911 implementation: liability protection, antitrust protection, PSAP technical capabilities and PSAP-local exchange carrier relations.<sup>8</sup>

Despite the obstacles, the Consensus Report indicates that local jurisdictions are making

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<sup>6</sup> Report and Order, 11 FCC Rcd 18676, 18722; Reconsideration Order, 12 FCC Rcd 22665, 22734-5.

<sup>7</sup> Public Notice, CC Docket No. 94-102, "Commission Seeks to Facilitate Wireless E911 Implementation and Requests a Report," FCC 99-132, rel. June 9, 1999.

<sup>8</sup> Consensus Report at pp. 6-7.

progress in establishing cost recovery mechanisms. As of June, 1999, twenty-seven states had enacted legislation "to facilitate Phase I funding mechanisms." <sup>9</sup> And thirty-three states currently have wireless 911 surcharges.<sup>10</sup> Differing levels of interest among states and localities, political dynamics, and administrative processes, all come into play in creating an adequate cost recovery mechanism, yet, 284 PSAPs in fifteen states have implemented E911 Phase I services.<sup>11</sup> As for the future of E911 implementation, the Consensus Report concludes that under current FCC rules, ubiquitous, wireless E911 services will become a reality.<sup>12</sup>

The Consensus Parties conclude that PSAPs must have "the means (cost recovery) to pay for the [E-911 Phase I] service."<sup>13</sup> While they disagree on the best cost recovery method, except for APCO, the Consensus Parties reject the Commission's suggestion that E-911 implementation should move forward whether or not a cost recovery mechanism under the framework established by the Commission, i.,e., by local authorities, is in place. The Consensus Report finds that "[t]o implement Phase I, PSAPs must have the means (cost recovery) to pay for the service."<sup>14</sup>

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<sup>9</sup> Id. at p. 4.

<sup>10</sup> Id.

<sup>11</sup> Consensus Report at p. 5.

<sup>12</sup> Id. at p. 6.

<sup>13</sup> Id. at p. 11.

<sup>14</sup> Id.

APCO departs from the Consensus Parties in its position that an individual company's "bill and keep" method of cost recovery could substitute for a cost recovery method formulated by a local jurisdiction. None of the other Consensus Parties favors bill and keep. RCA opposes bill and keep as inadequate and inequitable, and agrees with the majority of Consensus Parties that bill and keep is not a substitute for a cost recovery mechanism.

The Commission initially determined, based on the record, that there was no demonstrated need to prescribe a particular method for cost recovery. The FCC based its decision on its finding that state and local governments could better address state and local needs and conditions and therefore, it was appropriate to allow funding to remain with state and local governments.<sup>15</sup> On reconsideration, the Commission affirmed its findings and conclusions regarding cost recovery for E911 implementation. In these earlier proceedings, the Commission considered and correctly rejected "bill and keep" as a cost recovery method. APCO's suggestion that the bill and keep approach should be allowed as a substitute for a cost recovery method developed by the local jurisdiction is ill-advised, and should be rejected.

Under the bill and keep approach, a wireless carrier would recover its actual costs of providing 911 services from its own customers. As actual costs change, the customer charges would change. The Commission should reject the bill and keep approach because it is inequitable to small, rural carriers, non-compensatory and anti-competitive. It is inequitable to smaller carriers and their customers because their typically higher cost of providing service

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<sup>15</sup> Report and Order at 18719 - 722.

would be spread over a smaller customer base.<sup>16</sup> It is non-compensatory because it is a means of recovering carrier costs, but not PSAP costs.<sup>17</sup> Also, as CTIA notes in its Addendum to the Consensus Report, all wireless 911 calls must be transmitted, whether or not they can be billed.<sup>18</sup> Bill and keep is anti-competitive because larger carriers would be able to spread their costs over a larger customer base, and thereby recover their costs through lower charges than smaller competitors. RCA agrees with CTIA's statement that "[i]n order preserve competitive neutrality, cost recovery mechanisms should avoid favoring one carrier's E9-1-1 compliance cost structure over another carrier's costs structure."<sup>19</sup> Also, as CTIA points out, a bill and keep approach is outside of the regulatory framework for E911 implementation as established by the Commission.<sup>20</sup>

Notably, a recent Washington State study of the most cost effective and efficient way to implement wireless E911 concluded that the bill and keep option "does not provide a stable

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<sup>16</sup> Even APCO supports state-established cost recovery "pools" "to address the concerns of rural carriers faced with relatively high per-subscriber costs of compliance (due to the large number of sites relative to the number of subscribers)." Consensus Report, APCO Addendum at p. 4.

<sup>17</sup> In that regard, the Consensus Report notes that the current process undertakes recovery of both carrier and PSAP costs.

<sup>18</sup> Consensus Report, CTIA Addendum at p. 2.

<sup>19</sup> *Id.* at p. 3.

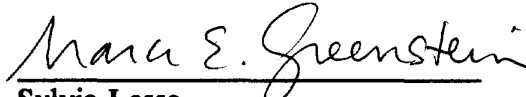
<sup>20</sup> *Id.* at p. 1.

funding source for wireless E911 service."<sup>21</sup>

In sum, the Commission should not reverse course, but rather continue to allow wireless carriers, PSAPs and local jurisdictions to work together to implement E911 services, including establishing a cost recovery mechanism that is adequate and equitable.

Respectfully submitted,

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September 14, 1999

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<sup>21</sup> Washington State Department of Revenue Report, Executive Summary, p. 5  
<http://www.dor.wa.gov/pub/e911/execsum.htm>

## **CERTIFICATE OF SERVICE**

I, Shelley Davis, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC, 20037, hereby certify that on this 14th day of September, 1999, the attached "Comments of the Rural Cellular Association" was delivered by first class, U.S. mail, postage prepaid to the following parties:

  
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